

California Integrated Waste Management Board
Marie W. Carter, Chief Counsel, SBN 070403
Wendy Breckon, Staff Counsel, SBN 182952
Attorneys for Petitioner
1001 I Street, 23rd Floor
Sacramento, CA 95814
Telephone: (916) 341-6068

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA

In the Matter of:

EDUARDO SILVA

OWNER & OPERATOR

RE: ART'S TIRE & WHEEL CO.

TPID NO. 1006855

RESPONDENT.

CASE NO.

ADMINISTRATIVE DECISION

The California Integrated Waste Management Board ("CIWMB") served an Administrative Complaint and Request for Hearing form on EDUARDO SILVA, RESPONDENT, on October 9, 2004. RESPONDENT did not file a Request for Hearing. The matter shall be determined as a default pursuant to Public Resources Code (PRC) section 42851 (b) and Government Code section 11520. The CIWMB takes action against the RESPONDENT based upon evidence and affidavits that may be used without any notice to the RESPONDENT.

FACTUAL FINDINGS

1. The Administrative Complaint was executed by WENDY BRECKON, Staff Counsel, CIWMB, acting in her official capacity.

2. EDUARDO SILVA, owner/operator of ART'S TIRE & WHEEL CO, is responsible for the transportation of waste tires by a person not holding a valid waste tire hauler registration from the CIWMB.

3. On September 20, 2001, ART'S TIRE & WHEEL CO, located at 706 West Harvard Blvd., Santa Paula, CA was inspected by an employee of the CIWMB. During the inspection the operator, EDUARDO SILVA did not have copies of Waste Tire Manifests to document a CIWMB Registered Waste Tire Hauler was disposing of his tires. On September 21, 2004 a Letter of Violation was sent to ART'S TIRE & WHEEL CO, documenting the violation of the PRC section 42961.5 Waste Tire Manifesting. The Letter of Violation also directed the operator to use only CIWMB Registered Haulers to remove waste tires from his facility. A true and correct copy of the Letter of Violation is attached hereto as "Exhibit 1."

4. On November 2, 2001 the CIWMB issued Waste Tire Hauling Registration number 2724 to ART'S TIRE & WHEEL CO. On November 19, 2002, ART'S TIRE & WHEEL CO was issued a renewed Waste Tire Hauling Registration. This registration expired on December 31, 2003 and EDUARDO SILVA failed to renew the registration. A true and correct copy of these Waste Tire Hauler Applications are attached hereto as "Exhibit 2."

5. On August 25, 2004, ART'S TIRE AND WHEEL CO, located at 706 West Harvard Blvd., Santa Paula, CA was inspected by the CIWMB. During the inspection, an employee of ART'S TIRE & WHEEL CO stated that they cut up the tires and haul them to the Toland Road Landfill. EDUARDO SILVA, the owner/operator then showed up and made a conflicting statement. MR. SILVA stated that he was using a registered hauler, named ART'S TIRE AND WHEEL ETC, located at 8601 San Fernando Road, Sun Valley, CA, who was picking up his waste tires monthly. MR. SILVA stated that his employees cut up the tires, put them into his truck along with rubbish, and then the registered hauler would transfer the cut up tires from MR. SILVA'S truck to the hauler's

1 truck. The inspector of the CIWMB viewed tires in excess of nine (9) in the truck. At
2 this time MR. SILVA gave the inspector three receipts from the Toland Road Landfill
3 documenting that MR. SILVA had taken loads to the landfill on 1/13/04, 3/19/04, and
4 4/19/04. MR. SILVA did not have manifests to document a CIWMB registered hauler
5 was used but said he could get them.

6 6. On August 26, 2004, an inspection was conducted by the inspector of the CIWMB
7 at ART'S TIRE AND WHEEL ETC, located at 8601 San Fernando Road, Sun Valley,
8 CA, to verify whether this business was a registered hauler and was hauling waste tires
9 for Mr. SILVA. During this site visit the inspector of the CIWMB spoke, by telephone,
10 with ART GARCIA, the owner of ART'S TIRE AND WHEEL ETC in Sun Valley. MR.
11 GARCIA denied he was picking up Mr. SILVA'S waste tires. Thus Mr. SILVA was not
12 using ART'S TIRE AND WHEEL ETC to dispose of his waste tires as he represented.
13 A true and correct copy of Inspection Report and landfill receipts are attached hereto as
14 "Exhibit 3."

15 LEGAL CONCLUSIONS

16 1. EDUARDO SILVA d.b.a. ART'S TIRE & WHEEL CO is in violation of PRC
17 section 42951, which makes it unlawful, on or after January 1, 1995, to engage in the
18 transportation of waste tires unless holding a valid Waste Tire Hauler Registration,
19 unless exempted as specified in PRC section 42954.

20 2. The CIWMB's authority to assess civil penalties against EDUARDO SILVA d.b.a.
21 ART'S TIRE & WHEEL CO as a waste tire hauler, is set forth in PRC section 42962 and
22 in Title 14 of the California Code of Regulations section 18464.

23 3. 14 California Code of Regulations section 18464, the waste and used tire hauler
24 penalty tables, demonstrate that the requested penalty of \$1,000 (one thousand dollars)
25 is within the CIWMB's discretion.

26 4. No evidence of mitigation, extenuation or rehabilitation is offered.

27 ORDER

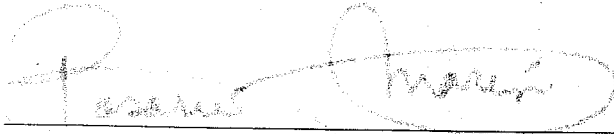
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Good cause appearing, Complainant's motion to take action in accordance with the provisions of PRC section 42851, subdivision (b) and Government Code section 11520, subdivision (a) is granted.

THE FOLLOWING ORDER is hereby made:

RESPONDENT, EDUARDO SILVA, is ordered to pay an administrative penalty of \$1,000.00 (One thousand dollars) to the California Integrated Waste Management Board within 30 (thirty) days of the date of this decision.

This DECISION shall become effective February 15, 2005



DATED: 2/15/05

ROSARIO MARIN
Chair
California Integrated Waste Management Board